IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 4985
Funke *et al.*	Art Unit: 1616
Appl. No.: 10/578,512	Examiner: Pak, John D.
§ 371 (c) Date: April 5, 2007	
For: **Active Agent Combinations with Insecticidal and Acaricidal Properties**	

Declaration of Heike Hungenberg under 37 C.F.R. §1.132

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

I, Heike Hungenberg, of Grünewaldstr. 39b, 40764 Langenfeld , Germany, a citizen of Langenfeld, Germany, hereby declare:

1.   That I am a biologist having studied at the University of Giessen, Germany.

2.   That I received my diploma degree in biology at the University of Giessen, Germany in 1992.

3.   That I entered the employment of Bayer in 1992 and that I am presently employed by Bayer CropScience AG, the assignee of the above-captioned application.

4.   that I currently hold the position of a scientist within the group of Product and Project Support, in which I supervise the biological tests of insecticides; and that I have held this position for 8 years;

5.   that I am named as an inventor in U.S. Patent Application No. 10/578,512 ("Application") which is the U.S. National Phase Application of International Application No. PCT/EP2004/012329, which has been assigned to Bayer CropScience AG

6.   that I have read and understand the specification and claims of the Application;

7.   that compounds (I-1),(I-2), Abamectin, Diafenthiuron, Spinosad, Endosulfan, and compounds of the formula (II-1), described in the Application, were tested as described in Examples A - I, below;

8.   that Examples A -I were carried out under my supervision and direction;

9.   that the expected efficacy of a given combination of two compounds is calculated as follows (see Colby, S.R., „Calculating Synergistic and antagonistic Responses of Herbicide Combinations", Weeds 15, pp. 20-22, 1967):

If

X is the efficacy expressed in % mortality of the untreated control for test compound A at a concentration of m ppm respectively m g/ha,

Y is the efficacy expressed in % mortality of the untreated control for test compound B at a concentration of n ppm respectively n g/ha,

E is the efficacy expressed in % mortality of the untreated control using the mixture of A and B at m and n ppm respectively m and n g /ha,

then is
$$E = X + Y - \frac{X \cdot Y}{100}$$

If the observed insecticidal efficacy of the combination is higher than the one calculated as „E", then the combination of the two compounds is more than additive, i.e., there is a synergistic effect.

10. Example A

Aphis gossypii - test

Solvent: 7 parts by weight of dimethylformamide

Emulsifier: 2 parts by weight of alkylaryl polyglycolether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amount of solvent and emulsifier, and the concentrate is diluted with emulsifier-containing water to the desired concentration.

Cotton leaves (*Gossypium herbaceum*) which are heavily infested by the cotton aphid (*Aphis gossypii*) are treated by being dipped into the preparation of the active compound of the desired concentration.

After the specified period of time, the mortality in % is determined. 100 % means that all the aphids have been killed; 0 % means that none of the aphids have been killed.

According to the present application in this test e.g. the following combination shows a synergistic effect in comparison to the single compounds:

Table A1
plant damaging insects
Aphis gossypii – test

Active Ingredient	Concentration in ppm	Efficacy in % after 1^d	
II-1-4	4	25	
Diafenthiuron	20	15	
	4	15	
II-1-4 + Diafenthiuron (1 : 1) according to the invention	4 + 4	obs.* 50	cal.** 36,25

* obs. = observed insecticidal efficacy

** cal. = efficacy calculated with Colby-formula

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Example B

Heliothis armigera test

Solvent: 7 parts by weight of dimethylformamide

Emulsifier: 2 parts by weight of alkylaryl polyglycolether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amount of solvent and emulsifier, and the concentrate is diluted with emulsifier-containing water to the desired concentration.

Soybean shoots (*Glycine max*) are treated by being dipped into the preparation of the active compound of the desired concentration and are infested with larvae of the cotton boll worm (*Heliothis armigera*) as long as the leaves are still moist.
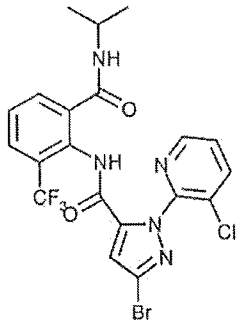
After the specified period of time, the mortality in % is determined. 100 % means that all the caterpillars have been killed; 0 % means that none of the caterpillars have been killed.
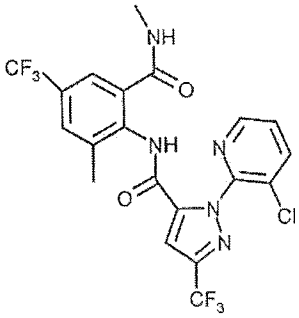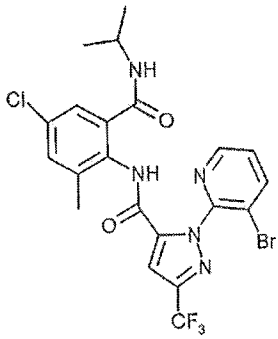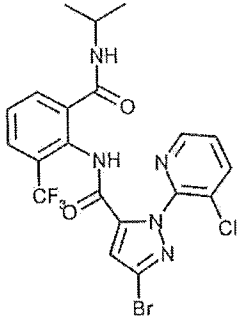
According to the present application in this test e.g. the following combinations show a synergistic effect in comparison to the single compounds:
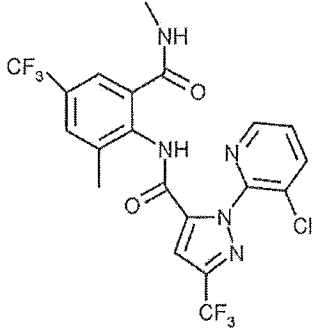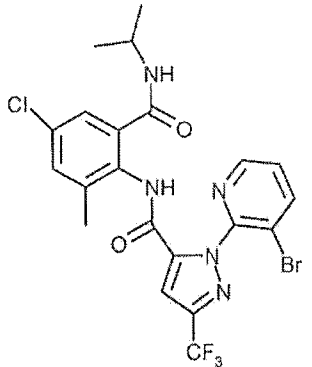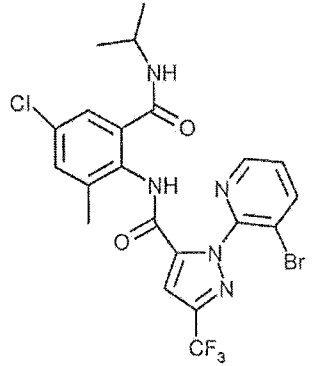
Table B1
Plant damaging insects
Heliothis armigera - Test

Active Ingredient	Concentration in ppm	Efficacy in % after 3^d	
II-1-4	0,0064	55	
Spinosad	0,032	0	
II-1-4 + Spinosad (1 : 5) according to the invention	0,0064 + 0,032	obs.* cal.** 80 55	

*   obs.   =   observed   insecticidal   efficacy
** cal. = efficacy calculated with Colby-formula

Example C
Myzus persicae - test
Solvent: 78   parts   by   weight   of   acetone
                    1,5 parts by weight of dimethylformamide

Emulsifier: 0,5 parts by weight of alkylaryl polyglykolether

To produce a suitable preparation of active compound, 1 part by weight of active com-
pound is mixed with the stated amount of solvent and emulsifier, and the concentrate is
diluted with emulsifier-containing water to the desired concentration.

Cabbage leaves (*Brassica oleracea*) which are heavily infested by the green peach aphid
(*Myzus persicae*) are treated by being sprayed with the preparation of the active com-
pound at the desired concentration.

After the specified period of time, the mortality in % is determined. 100 % means that all the aphids
have been killed; 0 % means that none of the aphids have been killed.

According to the present application in this test e.g. the following combinations show a
synergistic effect in comparison to the single compounds:

Table C1
Plant damaging insects
Myzus persicae - Test

Active Ingredient	Concentration in g/ha	Efficacy in % after 1[d]
	4	0
II-1-1	4	30
II-1-24	4	0
II-1-12	4	20
II-1-4		

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	4	50
 II-1-2	4	50
	4	0
 Abamectin	4	0
(I-2)	4	0
(I-1)	100	0
	100	0
 + **Abamectin** (1 : 1) according to the invention	4 + 4	obs.* cal.** 50 0

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		obs.* cal.**
 + **Abamectin** (1 : 1) according to the invention	4 + 4	70 50
II-1-2 + Abamectin (1 : 1) according to the invention	4 + 4	obs.* cal.** 50 0
 + **Abamectin** (1 : 1) according to the invention	4 + 4	obs.* cal.** 50 0
II-1-24 + (I-2) (1 : 25) according to the invention	4 + 100	obs.* cal.** 40 0
II-1-4 + (I-2) (1 : 25) according to the invention	4 + 100	obs.* cal.** 70 50
 + **(I-2)** (1 : 25) according to the invention	4 + 100	obs.* cal.** 50 0
II-1-1 + (I-1) (1 : 25)		obs.* cal.**

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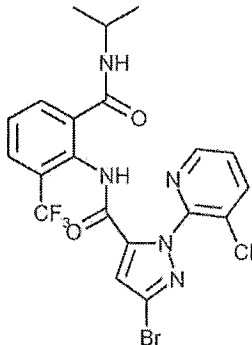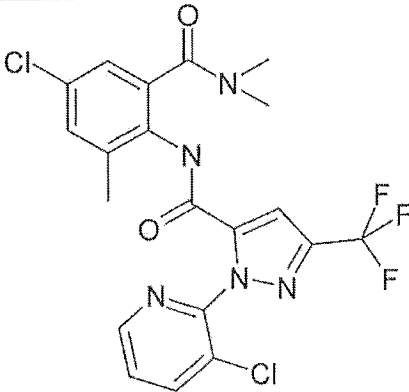
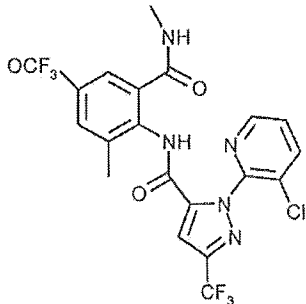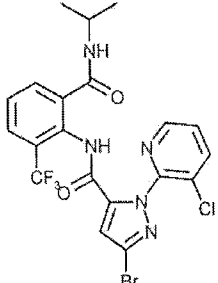|			
according to the invention	4 + 100	70	30
II-1-12 + (I-1) (1 : 25)		obs.*	cal.**
according to the invention	4 + 100	50	20
II-1-2 + (I-1) (1 : 25)		obs.*	cal.**
according to the invention	4 + 100	50	0
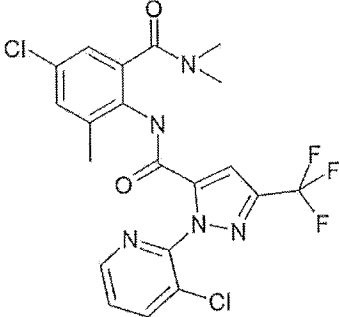
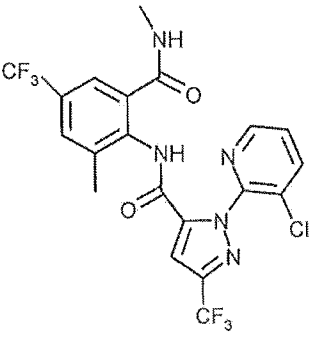*   obs.   =   observed   insecticidal   efficacy
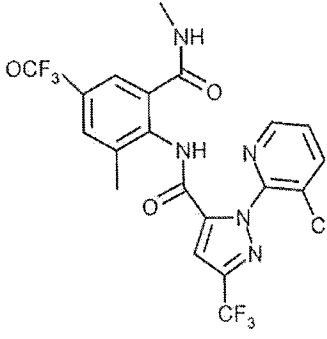
** cal. = efficacy calculated with Colby-formula

Table C2
Plant damaging insects
Myzus persicae - Test

Active Ingredient	Concentration in g/ha	Efficacy in % after 6^d
	0,8	0
II-1-52	0,8	10
	0,8	0
II-1-24	4	0
II-1-4	0,8	0

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Compound		
	0,8	0
	0,8	0
Abamectin	0,8	50
Diafenthiuron	0,8	5
(I-2)	20	50
(I-1)	100	0
	20	0
+ Abamectin (1 : 1) according to the invention	0,8 + 0,8	obs.* cal.** 70 50

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		obs.* cal.**
  + **Abamectin** (1 : 1) according to the invention	0,8 + 0,8	70 50
II-1-4 + Diafenthiuron (1 : 1) according to the invention	0,8 + 0,8	obs.* cal.** 20 5
  + (I-2) (1 : 25) according to the invention	0,8 + 20	obs.* cal.** 80 50
  + (I-2) (1 : 25) according to the invention	0,8 + 20	obs.* cal.** 70 50

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	0,8 + 20	obs.* 90	cal.** 50
 + (I-2)　　(1 : 25) according to the invention			
 + (I-2)　　(1 : 25) according to the invention	0,8 + 20	obs.* 70	cal.** 50
II-1-52 + (I-1) (1 : 25) according to the invention	0,8 + 20	obs.* 100	cal.** 10
II-1-24 + (I-1) (1 : 25) according to the invention	4 + 100	obs.* 80	cal.** 0
II-1-4 + (I-1) (1 : 125) according to the invention	0,8 + 100	obs.* 45	cal.** 0

*　　obs.　　=　　observed　　insecticidal　　efficacy
** cal. = efficacy calculated with Colby-formula

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Example **D**
Phaedon cochleariae - test

Solvent: 78   parts   by   weight   of   acetone
              1,5 parts by weight of dimethylformamide

Emulsifier: 0,5 parts by weight of alkylaryl polyglykolether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amount of solvent and emulsifier, and the concentrate is diluted with emulsifier-containing water to the desired concentration.

Cabbage leaves (*Brassica oleracea*) are treated by being sprayed with the preparation of the active compound at the desired concentration and are infested with larvae of the mustard beetle (*Phaedon cochleariae*) as long as the leaves are still moist.

After the specified period of time, the mortality in % is determined. 100 % means that all the beetle larvae have been killed; 0 % means that none of the beetle larvae have been killed.

According to the present application in this test e.g. the following combinations show a synergistic effect in comparison to the single compounds:

<div align="center">

Table D1
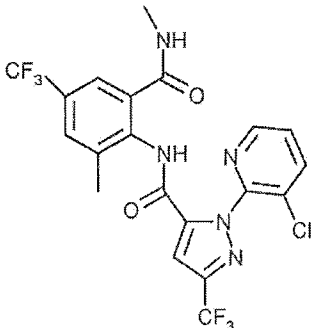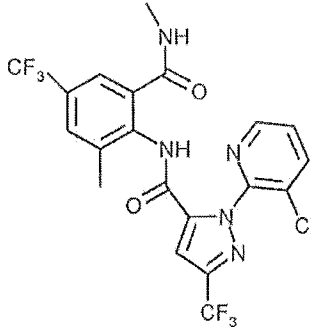plant damaging insects
Phaedon cochleariae – test
</div>

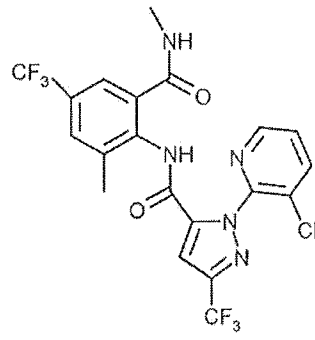| Active Ingredient	Concentration in g/ha	Efficacy in % after 2^d
II-1-54	0,16	33
II-1-12	0,8	17
II-1-4	4	50
(I-2)	100	0
	20	0
	4	0
(I-1)	100	0
	20	0
	4	0
II-1-54 + (I-2) (1 : 25) according to the invention	0,16 + 4	obs.* cal.** 100 33
II-1-12 + (I-2) (1 : 25)		obs.* cal.**

according to the invention	0,8 + 20	50	17
II-1-4 + (I-2) (1 : 25)		obs.*	cal.**
according to the invention	4 + 100	67	50
II-1-54 + (I-1) (1 : 25)		obs.*	cal.**
according to the invention	0,16 + 4	100	33
II-1-12 + (I-1) (1 : 25)		obs.*	cal.**
according to the invention	0,8 + 20	67	17
II-1-4 + (I-1) (1 : 25)		obs.*	cal.**
according to the invention	4 + 100	67	50

*obs.   =   observed   insecticidal   efficacy

** cal. = efficacy calculated with Colby-formula

Table D2
plant damaging insects
Phaedon cochleariae – test

Active Ingredient	Concentration in g/ha	Efficacy in % after 6[d]	
II-1-52	0,16	33	
II-1-24	0,16	33	
(chemical structure)	0,16	33	
(I-2)	4	0	
(I-1)	4	0	
II-1-52 + (I-2) (1 : 25) according to the invention	0,16 + 4	obs.* 50	cal.** 33
(chemical structure) + (I-2) (1 : 25) according to the invention	0,16 + 4	obs.* 67	cal.** 33
II-1-52 + (I-1) (1 : 25) according to the invention	0,16 + 4	obs.* 67	cal.** 33
II-1-24 + (I-1) (1 : 25) according to the invention	0,16 + 4	obs.* 83	cal.** 33

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		obs.* cal.**
	0,16 + 4	83 33
+		
(I-1) (1 : 25)		
according to the invention		

*obs.   =   observed   insecticidal   efficacy
** cal. = efficacy calculated with Colby-formula

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Example E
Phaedon cochleariae - test

Solvent: 7   parts by weight of dimethylformamide

Emulsifier: 2   parts by weight of alkylaryl polyglycolether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amount of solvent and emulsifier, and the concentrate is diluted with emulsifier-containing water to the desired concentration.

Cabbage leaves (*Brassica oleracea*) are treated by being dipped in the preparation of the active compound at the desired concentration and are infested with larvae of the mustard beetle (*Phaedon cochleariae*) as long as the leaves are still moist.

After the specified period of time, the mortality in % is determined. 100 % means that all the beetle larvae have been killed; 0 % means that none of the beetle larvae have been killed.

According to the present application in this test e.g. the following combinations show a synergistic effect in comparison to the single compounds:

Table E1
plant damaging insects
Phaedon cochleariae – test

Active Ingredient	Concentration in ppm	Efficacy in % after 4^d	
II-1-4	0,16	5	
Diafenthiuron	20	0	
II-1-4 + Diafenthiuron (1: 125) according to the invention	0,16 + 20	Obs.* 15	cal.** 5

*   obs.   =   observed   insecticidal   efficacy

** cal. = efficacy calculated with Colby-formula

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Example F
Plutella xylostella - test

Solvent: 7 parts by weight of dimethylformamide

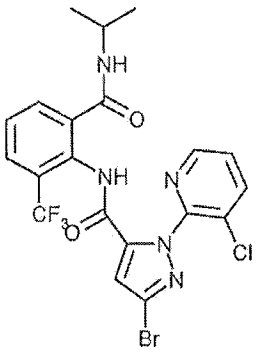Emulsifier: 2 parts by weight of alkylaryl polyglycolether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amount of solvent and emulsifier, and the concentrate is diluted with emulsifier-containing water to the desired concentration.
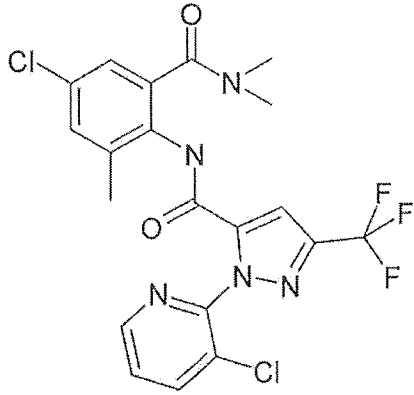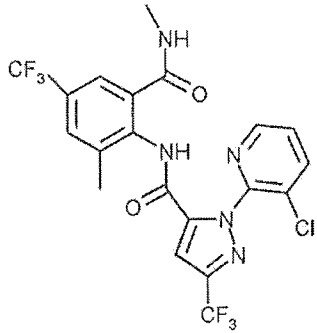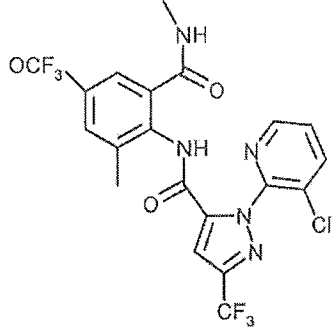
Cabbage leaves (*Brassica oleracea*) are treated by being dipped into the preparation of the active compound of the desired concentration and are infested with larvae of the diamond back moth (*Plutella xylostella*) as long as the leaves are still moist.

After the specified period of time, the mortality in % is determined. 100 % means that all the caterpillars have been killed; 0 % means that none of the caterpillars have been killed.

According to the present application in this test e.g. the following combinations show a synergistic effect in comparison to the single compounds:

Table F1
plant damaging insects
Plutella xylostella – test

Active Ingredient	**Concentration** **in ppm**	**Efficacy** **in % after 6^d**
II-1-4	0,0064	37,5
Abamectin	0,00128	12,5
II-1-4 + Abamectin (5 : 1) according to the invention	0,0064 + 0,00128	<u>obs.*</u> <u>cal.**</u> 62,5 45,32

*   obs.   =   observed   insecticidal   efficacy
** cal. = efficacy calculated with Colby-formula

Example **G**
Spodoptera frugiperda - test
Solvent: 78   parts   by   weight   of   acetone
                 1,5 parts by weight of dimethylformamide

Emulsifier: 0,5 parts by weight of alkylaryl polyglykolether

To produce a suitable preparation of active compound, 1 part by weight of active com-
pound is mixed with the stated amount of solvent and emulsifier, and the concentrate is
diluted with emulsifier-containing water to the desired concentration.

Cabbage leaves (*Brassica oleracea*) are treated by being sprayed with the preparation of
the active compound at the desired concentration and are infested with larvae of the fall
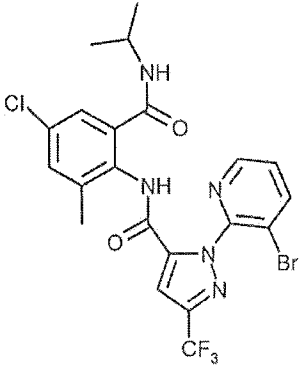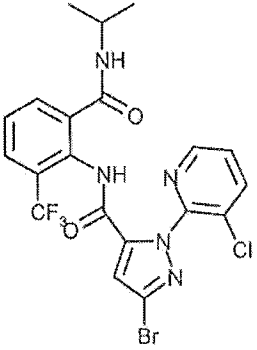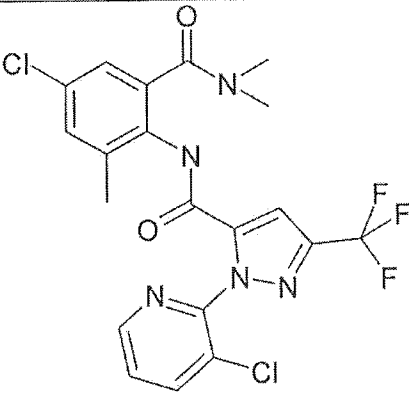army worm (*Spodoptera frugiperda*) as long as the leaves are still moist.

After the specified period of time, the mortality in % is determined. 100 % means that all
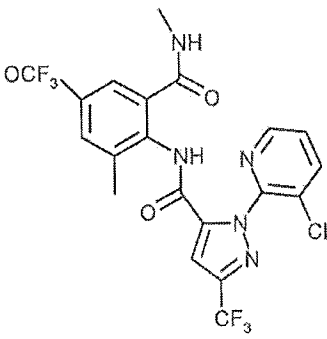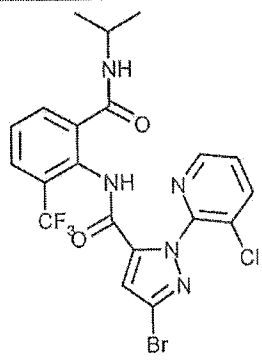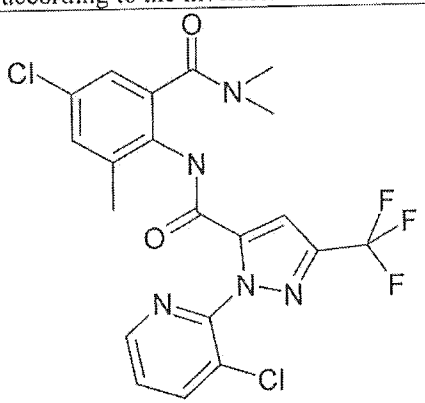the caterpillars have been killed; 0 % means that none of the caterpillars have been
killed.

According to the present application in this test e.g. the following combinations show a
synergistic effect in comparison to the single compounds:

Table G1: **Spodoptera frugiperda – test**

Active Ingredient	Concentration in g/ha	Efficacy in % after 2^d
	4	0
II-1-54	0,16	33
II-1-1	0,16	33

Structure		
	4	50
	4	67
	4	33
II-1-2	0,8	67
	0,16	33

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	4	83
Abamectin	4 0,8	0 0
(I-2)	100 20 4	0 0 0
(I-1)	100 4	0 0
+ Abamectin (1 : 1) according to the invention	4 + 4	obs.* cal.** 17 0
Abamectin (1 : 1) according to the invention	4 + 4	obs.* cal.** 100 50

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		obs.*	cal.**
II-1-2 + Abamectin (1 : 1) according to the invention	0,8 + 0,8	83	67
II-1-54 + (I-2) (1 : 25) according to the invention	0,16 + 4	83	33
II-1-1 + (I-2) (1 : 25) according to the invention	0,16 + 4	83	33
[chemical structure with OCF₃, NH, O, CF₃, Cl, pyridine] + (I-2) (1 : 25) according to the invention	4 + 100	50	33
II-1-2 + (I-2) (1 : 25) according to the invention	0,8 + 20	83	67
[chemical structure with isopropyl NH, CF₃, Cl, Br, pyridine] + (I-1) (1 : 25) according to the invention	4 + 100	17	0
[chemical structure with Cl, N(CH₃)₂, CF₃, Cl, pyridine] + (I-1) (1 : 25) according to the invention	4 + 100	83	50

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		obs.* cal.** 83 67
 (I-1) (1 : 25) according to the invention	4 + 100	
II-1-2 + (I-1) (1 : 25) according to the invention	0,16 + 4	obs.* cal.** 67 33
 (I-1) (1 : 25) according to the invention	4 + 100	obs.* cal.** 100 83

*   obs.   =   observed   insecticidal   efficacy
** cal. = efficacy calculated with Colby-formula

Table G2
plant damaging insects
Spodoptera frugiperda – test

Active Ingredient	Concentration in g/ha	Efficacy in % after 6[d]

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	0,16	83
(I-2)	4	0
+ (I-2) (1 : 25) according to the invention	0,16 + 4	obs.* cal.** 100 83

*   obs.   =   observed   insecticidal   efficacy

** cal. = efficacy calculated with Colby-formula

Example H

Tetranychus test (OP-resistant/dip test)

Solvent:	78	parts	by	weight	of	acetone

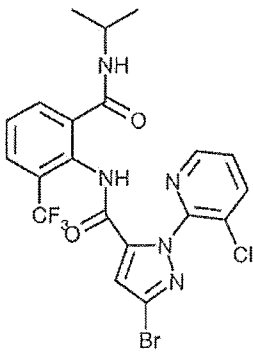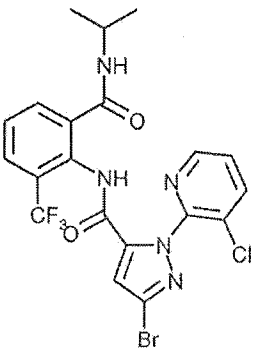1,5 parts by weight of dimethylformamide

Emulsifier: 0,5 parts by weight of alkylaryl polyglykolether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amount of solvent and emulsifier, and the concentrate is diluted with emulsifier-containing water to the desired concentration.

Bean plants (*Phaseolus vulgaris*) which are heavily infested with all stages of the two-spotted spider mite (*Tetranychus urticae*) are treated by being sprayed with the preparation of the active compound at the desired concentration.

After the specified period of time, mortality in % is determined. 100 % means that all the spider mites have been killed; 0 % means that none of the spider mites have been killed. According to the present application in this test e.g. the following combination showed a synergistic effect in comparison to the single compounds:

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Table H1
Plant damaging mites
Tetranychus urticae (OP-resistent) – Test
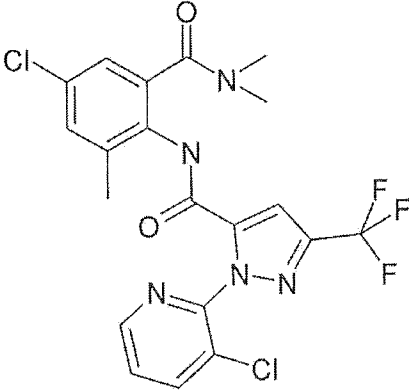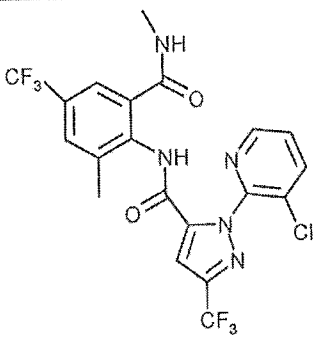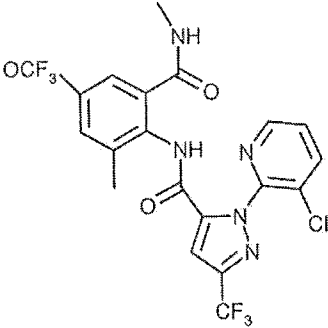
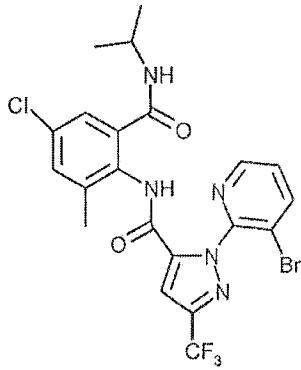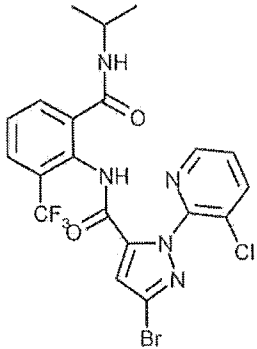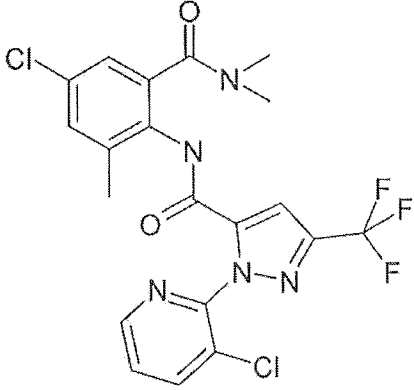| Active Ingredient	Concentration in g/ha	Efficacy in % after 2^d
	4	0
II-1-52	0,8	0
II-1-1	0,16	0
II-1-12	4	0
II-1-2	4	0
(I-1)	100 20 4	50 10 0
 + (I-1) (1 : 25) according to the invention	4 + 100	obs.* cal.** 80 50
II-1-52 + (I-1) (1 : 25) according to the invention	0,8 + 20	obs.* cal.** 50 10

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II-1-1 + (I-1) (1 : 25) according to the invention	0,16 + 4	obs.* 70	cal.** 0
II-1-12 + (I-1) (1 : 25) according to the invention	4 + 100	obs.* 99	cal.** 50
II-1-2 + (I-1) (1 : 25) according to the invention	4 + 100	obs.* 70	cal.** 50
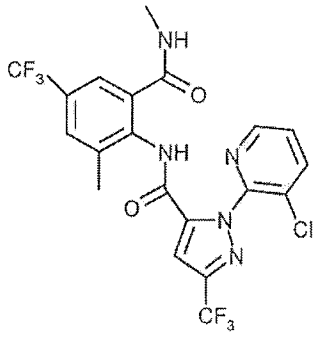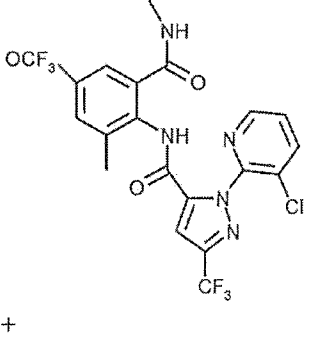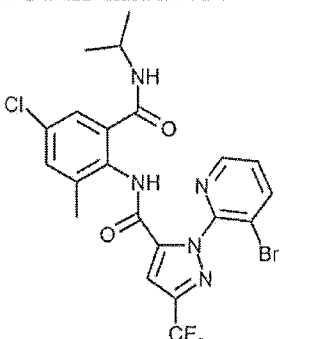
*obs.   =   observed   insecticidal   efficacy

** cal. = efficacy calculated with Colby-formula
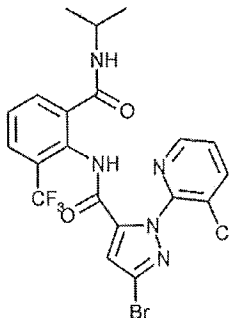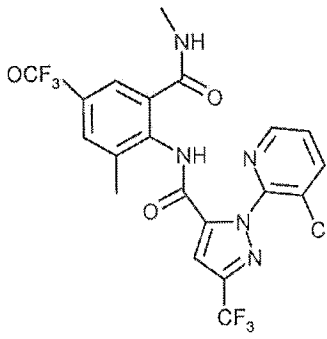
Table H2

Plant damaging mites

Tetranychus urticae (OP-resistent) – Test

Active Ingredient	Concentration in g/ha	Efficacy in % after 6[d]
	0,032	0
II-1-54	0,032	0
II-1-52	0,032	0
II-1-1	0,16	0

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	0,032 0,0064	0 0
II-1-24	0,032	0
II-1-12	0,032	0
II-1-4	4	0
	0,032 0,0064	0 0
	0,032	0
II-1-2	0,0064	0

	0,0064	0
Abamectin	0,032	80
	0,0064	20
(I-2)	100	80
	4	70
	0,8	20
(I-1)	100	80
	0,8	20
+ **Abamectin (1 : 1)** according to the invention	0,032 + 0,032	obs.* cal.** 100 80
+	0,0064 + 0,0064	obs.* cal.** 50 20

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Abamectin　　(1 : 1) according to the invention		
 + **Abamectin**　　(1 : 1) according to the invention	0,0064 + 0,0064	obs.*　cal.** 60　　20
 + **Abamectin**　　(1 : 1) according to the invention	0,032 + 0,032	obs.*　cal.** 100　　80
II-1-2 + Abamectin　　(1 : 1) according to the invention	0,0064 + 0,0064	obs.*　cal.** 50　　20
 + **Abamectin**　　(1 : 1) according to the invention	0,0064 + 0,0064	obs.*　cal.** 80　　20

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		obs.*	cal.**
  + (I-2)　　(1 : 25) according to the invention	0,032 + 0,8	40	20
II-1-54 + (I-2)　　(1 : 25) according to the invention	0,032 + 0,8	70	20
II-1-52 + (I-2)　　(1 : 25) according to the invention	0,032 + 0,8	50	20
II-1-1 + (I-2)　(1 : 25) according to the invention	0,16 + 4	90	70
II-1-24 + (I-2)　　(1 : 25) according to the invention	0,032 + 0,8	70	20
II-1-12 + (I-2)　　(1 : 25) according to the invention	0,032 + 0,8	60	20
II-1-4 + (I-2)　(1 : 25) according to the invention	4 + 100	99	80
  + (I-2)　　(1 : 25) according to the invention	0,032 + 0,8	40	20
II-1-54 + (I-1)　　(1 : 25) according to the invention	0,032 + 0,8	100	20

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		obs.*	cal.**
 + (I-1)　　(1 : 25) according to the invention	0,032 + 0,8	70	20
II-1-24 + (I-1)　(1 : 25) according to the invention	0,032 + 0,8	obs.*　70	cal.**　20
II-1-4 + (I-1)　(1 : 25) according to the invention	4 + 100	obs.*　100	cal.**　80

*obs.　　=　　observed　　insecticidal　　efficacy
** cal. = efficacy calculated with Colby-formula

Example I

Tetranychus test (OP-resistant/dip test)

Solvent: 　　　　7　parts by weight of dimethylformamide

Emulsifier: 　　　2　parts by weight of alkylaryl polyglycolether

To produce a suitable preparation of active compound, 1 part by weight of active compound is mixed with the stated amount of solvent and emulsifier, and the concentrate is diluted with emulsifier-containing water to the desired concentration.

Bean plants (*Phaseolus vulgaris*) which are heavily infested with all stages of the two-spotted spider mite (*Tetranychus urticae*) are treated by being dipped in the preparation of the active compound at the desired concentration.

After the specified period of time, mortality in % is determined. 100 % means that all the spider mites have been killed; 0 % means that none of the spider mites have been killed. According to the present application in this test e.g. the following combinations show a synergistic effect in comparison to the single compounds:

Table II
Plant damaging mites
Tetranychus urticae (OP-resistent) – Test

Active Ingredient	Concentration in ppm	Efficacy in % after 7^d	
II-1-9	100	0	
(I-2)	0,8	0	
(I-1)	0,8	65	
II-1-9 + (I-2) (125 : 1) according to the invention	100 + 0,8	obs.* 20	cal.** 0
II-1-9 +(I-1) (125 : 1) according to the invention	100 + 0,8	obs.* 95	cal.** 65

*obs.   =   observed   insecticidal   efficacy
** cal. = efficacy calculated with Colby-formula

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11.   The undersigned declares further that all statements made herein of his/her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed at Monheim, Germany,

1. 12. 2010	Keike Hy
Date	NAME